IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6454 OF 2007

Mrs.Laura Furtado Wd/o. deceased
Andrew Avelino Furtado & Ors. : Petitioners

V/s.

Chemox Exports Imports Pvt. Ltd. : Respondent

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Ms Yvonne Maria Furtado, petitioner no.2 in person.

Mr.N.P.Bhavsar for the respondent.

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CORAM : S.A.BOBDE, J.

DATE : SEPTEMBER 11, 2007.

P.C.

1. By this petition, the petitioners challenge the order of the trial Court allowing amendment to the plaint filed by the respondent. The respondent sued the petitioner for ejectment and possession on the ground of bona fide need. After the trial was commenced, the petitioners moved an application for amendment which has been allowed.

2. Having heard the parties at length, I am of view that the amendment proposed in para. 1 of Schedule-I ought to be allowed since it mainly refers to an alternate accommodation said to be available to the defendants i.e.

twin bungalow bearing M.H.N. 211 (door nos.211-A and 211-B) and bungalow no.216. Similarly, it is not necessary to allow para.2 to Schedule-I since that is a matter of evidence and it is not necessary to plead evidence. As regards para.3 of the Schedule, I am of view that the said paragraph should be allowed to be introduced since it refers to a family settlement after the filing of the suit. As regards paras. 4 and 5, they are matters of evidence and, hence, they need not be pleaded.

3. In the circumstances, the impugned order is set aside and instead the amendment shall be allowed as indicated above in this order. The trial Court may decide the suit as expeditiously as possible.

4. The Writ Petition is allowed in the above terms.

S.A. BOBDE, J.